

interest on the ground of his neglect. But if, being sued, he contests the claim, then he is chargeable on the stronger ground of his wilful opposition and denial of justice.

It is difficult to conceive what pretension a garnishee can have to stand in a better predicament than a defendant debtor. He is cited as a debtor; and is called into court certainly in that character, although not by that name and in that form. It is often said, that the object of our "attachment acts and practice," is to enforce an appearance. It may with as much propriety be said, that their intention is to compel a plea or any entry upon the docket. Their true and only object is to enable a creditor to obtain satisfaction out of any property found in this State belonging to his absent or absconding debtor; and for that purpose they have provided "a special auxiliary remedy for the recovery of debts:"^(m) something analogous to which will be found to exist in every code whatever.⁽ⁿ⁾ Hence it is evident, upon general principles, that a garnishee stands in all respects in a situation exactly similar to that of a defendant debtor; having the same rights and subject to the same liabilities. He may have leave, at any time, to bring the debt into court; and he is chargeable with interest from the time it becomes due until it is paid.

The positive provisions of our attachment act,^(o) looks to and evidently sanctions this right or duty of the garnishee to bring the sum attached into court for the purpose of relieving himself from further responsibility and trouble. He may contest the claim made against him; but, if he does so, the act declares he shall be liable to costs;—whence it clearly follows, that by assuming the position of a litigating debtor he would, as in all other similar cases, be also chargeable with interest upon the debt. A garnishee may not only defend his own interests, as a mere neutral in the controversy between the plaintiff and defendant; but he may also assume upon himself the character of an ally of the defendant. He is allowed to plead and defend his rights for him, and in his behalf.^(p) But if he thus contests the plaintiff's right to recover either as principal or ally in the controversy, the genius of our law, as well as the reason and justice of the case seem most strongly to require, that

(m) *Burk v. McClain*, 1 H. & McH. 236; *Campbell v. Morris*, 3 H. & McH. 535; *Davidson's Lessee v. Beatty*, 3 H. & McH. 594; *Shivers v. Wilson*, 5 H. & J. 130. (n) *Rex v. Wilkes*, 4 Burr. 2549; *Manro v. Almeida*, 10 Wheat. 473; 2 Bro. Civil Law, 333.—(o) 1715, ch. 40, s. 4.—(p) 1795, ch. 56, s. 4; *Wilson v. Starr*, 1 H. & J. 491.